

GENERAL GUIDANCE FOR LAWFUL USE OF FORCE AND INDIVIDUAL SELF-DEFENCE

PRODUCED BY HOPE NOT HATE

IN CONSULTATION WITH HUMAN RIGHTS AT SEA

WHAT IS DEFEND EUROPE?

Defend Europe is an attempt by far-right activists to confront and block humanitarian rescue ships operating in the Mediterranean.

It is being led by key members of the European 'Identitarian' movement, a collection of far-right activists operating in France, Germany, Austria and Italy.

They have secured a ship and now aim to disrupt and inhibit the vital efforts of NGOs saving the lives of migrants and refugees – many of whom are children – crossing the Mediterranean this summer.

This confrontational and dangerous project is organised by far-right activists with a long track record of anti-Muslim and anti-immigrant activism and while organised by Europeans it is being supported, funded and promoted by the extreme far-right around the world.

WHAT ARE THEY PLANNING?

Martin Sellner, co-leader of the Austrian Identitarian branch and main representative of the mission, stated in a video that the group would "block those ships from going to the Libyan coast", and the group shared a graphic on social media titled 'You Shall Not Pass' depicting an NGO ship being blocked.

While they have indicated that while they won't stop NGOs rescuing refugees they may attempt to stop NGO ships returning to Europe. They have also said that they will "confront" NGO ships and "intervene" if they believe laws are being broken.

Defend Europe claim that they intend to return any refugees it comes into contact with to the Libyan coast. Both Sellner and the Defend Europe site's FAQ suggest they will do this by working with the Libyan coastguard as a "recon" ship: alerting them to migrants and refugees they have found.

INTRODUCTION

In the context of busy daily operations saving life at sea, the consideration for the need for the defensive use of force in terms of protecting the vessel or craft¹ on which you are working, or protecting yourself (or another) as an individual from a threat to your personal safety can be easily overlooked and under-estimated.

Alongside operations to save life at sea, the use of defensive use of force may be considered such a limited risk to Search and Rescue (SAR) NGO crews and volunteers, that few persons understand what their individual rights are, what immediate actions and reactions they should take in the event of an imminent threat to themselves (or another), and what laws apply in defence of their rights, including the right to life.

This NGO Use of Force Guidance Note has been produced in partnership with Human Rights at Sea and is based on reference to the established 100 Series Rules for the Use of Force in supporting the lawful use of force in individual self-defence to protect both yourself as an individual, and your colleagues on-board your vessel or craft. Use of this Guidance is entirely voluntary.

ASSUMPTIONS

1. Your organisation is aware of both the need and requirement for training in terms of safety, security and actions relating to incidents that may involve a direct threat, or potential use of force against yourself, your colleagues, or the vessel or craft upon which you are working while at sea undertaking rescue operations.
2. Your organisation has established actions and procedures relating to responses to potential or actual threats to individuals, vessel and/or craft safety and security.
3. As an individual, you are aware of your right to lawfully defend yourself at all times, no matter what the threat may be.
4. SAR NGO crews have recourse to established individual national legislation explicitly covering the lawful use of individual self-defence and the basis upon which force can be used.
5. The guidance does not imply that there is an automatic right to revert to the use of force when faced with a suspicious contact², vessel or craft.
6. A court of law will ultimately determine whether or not any use of force was lawful under the circumstances it was taken.

IMPORTANT NOTE
NOTHING IN THIS GUIDANCE SHALL BE INTERPRETED IN ANYWAY WHATSOEVER AS LIMITING AN INDIVIDUAL'S INHERENT RIGHT OF SELF DEFENCE AS PROVIDED FOR UNDER APPLICABLE NATIONAL LAWS.

FUNDAMENTAL PRINCIPLES

The right of individual self-defence, as recognised and provided for under applicable flag State, national and international law, is not affected, or negated by the use of and reference to this guidance in any way whatsoever.

The guidance does not provide any form of immunity to any person who uses force, including up-to-and-including lethal force, unlawfully.

Nothing in this guidance shall be interpreted as a derogation of the Master's authority under the SOLAS Convention.

During an incident, an individual's decision to use reasonable and necessary force in self-defence, and which may include the use of up-to-and-including lethal force, is to be made in the context of all the information available to that person at that time and according to applicable flag State, national and international law.

POSITIVE IDENTIFICATION

The positive identification of and immediate actions to be taken in relation to a suspicious contact, vessel or craft may occur within a very short time frame, day or night. Speed of decision-making based on established safety and security procedures following positive identification will therefore be essential to assuring crew safety and security.

All contacts, vessels or craft deemed to be suspicious should, as the circumstances allow, be identified by the master and crew as a potential threat, prior to invoking the individual organisation's safety and security procedures.

WARNINGS

Prior to the potential need for any reasonable and necessary use of force against a suspicious vessel, every reasonable effort should be made to give warnings using all available means.

This includes, but is not limited to, verbal warnings on VHF Channel 16, use of loud hailers, water hoses, safe use of flares to attract attention, and obvious vessel maneuvering to demonstrate awareness of the potential threat posed, including riding off another vessel or craft.

¹ Includes Rigid Hulled Inflatable Boat (RHIB).

² Radar contact; as applicable to the vessel's onboard navigation equipment.

USE OF FORCE

In all situations no more force is to be used than is reasonable and necessary to deter a potential threat, or deal with an imminent threat to the life or wellbeing of an individual.

Any direct action that includes the use of force in individual self-defence must be limited in its degree, intensity and duration, and it must be proportionate to the threat posed. Excessive use of force, under the circumstances in which it is used, may later be found to have been unlawful.

Lethal force should only be used as a last resort.

Lethal force may only be used if the individual has a reasonable and honest belief that there is an imminent threat to their life, or the lives of others immediately next to them.

INCIDENT REPORTING

All incidents involving either the threat of use of force, or actual use of force towards a SAR NGO vessel by another vessel, craft and/or crew are to be immediately recorded within the vessel's log, recorded on all available media means, reported to individual organisation's operations rooms, reported on VHF Channel 16 to all nearby vessels, and to local Maritime Rescue Co-ordination Centres, as applicable.

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